GOVERNMENT OF MYSORE.

(LABOUR DEPARTMENT).

Labour Dispute.—Industrial Dispute between the Workmen and the Mangement of India Sugar and Refineries, Ltd., Hospet.

Award of the Industrial Tribunal, Bangalore—Published.

Read the following papers :—

1. Letter No. I. T. No. 1381/62-3, dated the 1st—3rd December 1962, from Sri S. S. Malimath, Presiding Officer, Industrial Tribunal, Bangalore.

BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE, BANGALORE.

Dated 30th November 1962.

Present :

Sri S. S. Malimath, B.A., LL.B. ... Presiding Officer.

Complaint No. 15 of 1962 in

I.D. No. 39 of 1962.

Sri Babamiya Workmen in India Sugar and Refineries, Ltd., Hospet, C/o I.S.R., Labour Union, Hospet ... ... Complainant,

Vs.

Management of India Sugar and Refineries, Ltd., Hospet ... Opposite Party

AWARD.

This is a Complaint filed against an order of dismissal and has been filed under Section 33A of the Industrial Disputes Act. On the date when the said order was passed, I.D. No. 39 of 1962 which was referred to this Tribunal by the Government, in their order No. PLM 224 LLD 62, dated 28th August 1962, was pending before this Tribunal. It is alleged that the said order of dismissal is in contravention of the provisions of Section 33. Hence, this Complaint.

2. The Complaint, dated 3rd September 1962, has beenr eceived by post on 6th September 1962. The bare allegations in the Complaint are that the Opposite Party is guilty of contravention of Section 33(2) (b). But the Annexure 'A' makes mention of certain facts. It is alleged that ever since the implementation of the recommendation of the Wage Board under an agreement, dated 17th January 1962, between the Workers and managment, there was a dispute regarding the duties of the Complainant. His duties remained undefined. He was not given proper increments. Under these circumstances, although the Complainant was not bound to obey his superiors, the management sought to dismiss him by holding a sham and unlawful enquiry. He contends that the enquiry was illegal and contrary to the principles of natural justice.

3. By its objections, dated 5th October 1962 (received by post on 10th October 1962), the management refutes all the allegations of the complainant as false and frivolous. They contend that there has been no contravention of the provisions of Section 33 and also that there was no industrial dispute pending on the day when the enquiry was held and the order was passed, since the Reference was received by the Opposite Party on 30th August 1962. As for the payment of one month's wages, it is alleged that there has been a proper and valid tender. As there was no pendency of any dispute, the question of application to the Tribunal under Section 33(2)(b) does not arise. All other allegations made in the complaint are denied. It is further alleged that the Complainant was persistently and

issued a show cause notice on 24th August 1962. The Complainant's explanation was taken and a domestic enquiry was held as per Standing Orders. Full opportunity was given to the Complainant to put forth his case. The charge of misconduct was found proved. Hence, the order of dismissal was passed. There was no question of victimisation or unfair labour practice.

4. On these pleadings issues were framed by me on 25th October 1962.

" I. Is it proved that there was a contravention of the provisions of Section 33(2)(b) of the Industrial Disputes Act, 1947 ?

II. (a) Does the Opposite Party prove that there was no pendency of any proceedings before the Tribunal at the time of the action complained of ?

(b) If there was no pendency, is the Complaint maintainable ?

III. Does the management (Opposite Party) prove that there was a fair and proper enquiry ?

IV. Does the Complainant prove that the action taken by the management is vindictive and *mala fide* and amounts to unfair labour practice ?

V. Is the Complainant entitled to reinstatement with or without back wages ?"

5. On 12th November 1962, a letter, dated 10th November 1962 was received from the Complainant under certificate of posting. It mentioned that negotiations were under progress for an amicable settlement. On 13th November 1962 an express delivery letter, dated 12th November 1962 was received from the I Party that the case is likely to be settled between him and the management. He prayed that further proceedings in the matter may be dropped. It showed that a copy was sent to the management as well. By an Order dated 12th November 1962 the case was posted to 28th November 1962 on which date both parties were to put in their affidavits. It was directed that the same day arguments would also be heard. On 28th November 1962 none appeared. In view of the complainant's letter dated 12th November 1962 requesting that the proceedings be dropped, I think it proper to concede to his request. The result is that the complaint will be dismissed. There will be no order as to costs. I pass an award accordingly.

S. S. MALIMATH,
Presiding Officer.

ORDER No. PLM 224 LLD 62, DATED BANGALORE, THE 18TH DECEMBER 1962.

WHEREAS by State Government Order No. PLM 224 LLD 62, dated 28th August 1962, the Industrial Dispute between the Workmen and the Management of India Sugar and Refineries Ltd., Hospet, was referred to the Industrial Tribunal, Bangalore, for adjudication ;

AND, WHEREAS the Industrial Tribunal has submitted to the State Government its award in complaint No. 15 of 1962 in I.D. No. 39 of 1962 in respect of the said Industrial Dispute ;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette.*

By Order and in the name of the Governor of Mysore.

H. L. LINGARAJ URS,
Deputy Secretary to Government,
Public Health, Labour and